



Employer contends it already paid a penalty and interest on payments it made late. It contends Employee has not provided an alternative disability benefits, penalty or interest calculation. Employer requests an order denying an additional penalty and interest.

**1) Is Employee entitled to an additional penalty and interest for late payments?**

Employee contends Employer only recently asked for her pay stubs and then informed her there was an overpayment of disability benefits. She contends she inquired about potential overpayment after her second surgery with the claims manager and she assumed her payments were handled appropriately. Employee contends any overpayment is due to adjuster negligence, considering she asked the claims manager about the payment and no action was taken, and she should not now be punished for an adjuster's mistake. She requests an order relieving her from overpayment and forfeiting Employer's right to recover overpayment.

Employer contends it is entitled by statute to recover overpaid benefits by withholding up to 20 percent of unpaid installments of compensation due without an order. It contends there is no exception and it is asserting its right to recover that payment. Employer contends Employee is seeking to create a penalty beyond that which is provided in AS 23.30.155(e). It requests orders confirming its entitlement to recover the overpayment and denying Employee's request for an order relieving her from overpayment and forfeiting Employer's right to recover overpayment.

**2) Is Employer entitled to be reimbursed for overpayments of benefits?**

FINDINGS OF FACT

A preponderance of the evidence establishes the following facts and factual conclusions:

- 1) On July 17, 2023, Employee injured her left knee while working for Employer when she was pushing a dust mop around a corner and her left knee popped. (First Report of Occupational Injury, July 29, 2023).
- 2) On July 20, 2023, Ksenia Sokolovia, PA-C, filled out a Physician's Report and checked the box "No" under "Released for Work" and checked the box for "4-7 days" under "Estimated Length of Disability." She also filled out a Patient Status Slip advising Employee was seen on July 20,

2023, and stated, “Please excuse patient from work until 7/25/2023.” (Sokolova Physician’s Report and Patient Status Slip, July 20, 2023).

3) On July 25, 2023, PA-C Sokolovia filled out a Physician’s Report and checked the box “No” under “Released for Work” and wrote six weeks under “Estimated Length of Disability.” (Sokolova Physician’s Report, July 25, 2023).

4) On July 27, 2023, Employee emailed adjuster Mary Garcia her last two paystubs from Michaels for the 2021 and 2022 tax years because she was unable to timely find her W2s. She also provided her W2 and her last timesheet and leave slip for her State of Alaska employment. Employee stated she missed work on July 18, 2022, due to being injured and was seen in urgent care that day. (Email, July 23, 2023).

5) On August 2, 2023, Gregory Strohmeier, MD, performed a left knee arthroscopy with partial lateral meniscectomy and open removal of a loose body from the anterior aspect of the lateral compartment from underneath the lateral meniscus. (Strohmeier Operative Report, August 2, 2023).

6) On August 8, 2023, Employee emailed Garcia her timesheet for her State of Alaska position for pay period ending August 6, 2023. She also said she was late to work on July 24 and 25, 2023, due to knee pain, her knee surgery occurred on August 2, 2023, and she was out of work the remainder of the week. (Email, August 8, 2023).

7) On August 10, 2023, PA-C Sokolovia filled out a Physician’s Report and checked the box “No” under “Released for Work” and wrote “two weeks” under “Estimated Length of Disability.” (Sokolova Physician’s Report, August 10, 2023).

8) On August 22, 2023, Employee emailed Garcia her timesheet for her State of Alaska position for pay period ending August 20, 2023. (Email, August 22, 2023).

9) On August 30, 2023, Employee emailed Garcia:

We spoke regarding all documents I have provided to you on 7/27/23 per your request, to include W2’s and timesheets from my State of Alaska employer, pay statements from Michaels and GBGO direct deposit forms.

I explained I have not received compensation for being out of work as a result of my workplace injury that occurred on 7/17/23 at Michaels . . . and asked when compensation would take place.

You stated you need to calculate wages today and that the process is different, as my situation is a TPD and not a TTD (uncertain of the acronyms and what they stand for, as you did not elaborate). You further explained my direct deposit forms are all processed and I should be seeing something (compensation??) tomorrow. (Email, August 30, 2023).

10) On September 1, 2023, Employee emailed Garcia her timesheet for her State of Alaska position, pay period ending September 3, 2023. (Email, September 1, 2023).

11) On September 1, 2023, the Workers' Compensation Division (Division) mailed Employee a letter stating:

We have received notice from the primary sender/claim administrator that initial benefits have been paid per the report, IP-Initial Payment. Benefits reported on the claim include the following:

<b>BTC</b>	<b>Description</b>	<b>MTCStart</b>	<b>Through</b>	<b>Net Weekly Amount Paid</b>
070	Temporary Partial	IP 07/18/23	08/21/23	355.68 711.37

You may verify your rates using Alaska's Division of Workers' Compensation benefit calculator hosted at <http://labor.alaska.gov/wc/benefitcalculator.htm>.

If you have any questions, please contact the claim administrator at (907) 276-3452. If you need further assistance after speaking with the claim administrator, contact the nearest Alaska Workers' Compensation Division Office listed at <http://labor.alaska.gov/wc/>. In all correspondence concerning your claim, please reference the AWCB Number: 202309990. (Letter, September 1, 2023).

12) On September 6, 2023, Employee emailed Garcia asking for clarification regarding her compensation payment:

After review of the check issued on 8/30/23 in the amount of \$711.37, I am in need of clarification. The check message indicated it's for and 2 weeks and 0 days however, it's clear on the dates that period of time exceeds a month's time (7/18/23 thru 8/21/23). Will I receive additional compensation for the other two weeks during this time?

Additionally, I received a Department of Labor statements in regards to the check being the first issuance outlining my net weekly pay is \$355.68. Is this projected as my weekly pay moving forward more specific to the time frame the first check was issued?

Furthermore, I provided all of my paperwork to include other state employer timesheets needed to process all payments through 9/3/23 and have yet to receive any other payments.

Please respond at your earliest convenience to ensure I have a full understanding moving forward and when these issues will be corrected. (Email, September 6, 2023).

13) On September 7, 2023, Garcia responded to Employee's September 6, 2023 email:

The check issued on 8/30/23, should have stated 4 weeks which was the 2 weeks was a typo when entered. Your net pay will vary depending on hours worked. Yes, I received the timesheets thru 09/03/23 and the payment has been entered in the system for the period of 08/22/23 to 09/04/23.

Please let me know if you have any questions. I have attached to TPD worksheets for your review as well.

The calculations attached to the email were seven copies of the "Benefit Calculator" from the Division's website for "TPD - Temporary Partial Disability" for a July 17, 2023 date of injury, married and two exemptions and handwritten calculations showing the hours Employee worked each week were multiplied by her hourly rate to calculate the post-injury weekly wages used in the "Benefit Calculator":

- gross weekly wages of \$1,178.46, post-injury weekly wage of \$1,043.69 resulting in a "TPD rate" of \$86.63; handwritten notes indicate it was for benefit period "7/18 - 7/24/23."
- gross weekly wages of \$1,178.46, post-injury weekly wage of \$1,361.03 resulting in a "TPD rate" of \$0.00; handwritten notes indicate it was for benefit period "7/25 - 7/31/23."
- gross weekly wages of \$1,178.46, post-injury weekly wage of \$282.08 with resulting in a "TPD rate" of \$599.18; handwritten notes indicate it was for benefit period "8/1 to 8/7/23."
- gross weekly wages of \$1,178.46, post-injury weekly wage of \$1,361.03 resulting in a "TPD rate" of \$0.00; handwritten notes indicate it was for benefit period "8/8 to 8/14/23."
- gross weekly wages of \$1,178.46, post-injury weekly wage of \$1,138.69 resulting in a "TPD rate" of \$25.56; handwritten notes indicate it was for benefit period "8/15 to 8/21/23."
- gross weekly wages of \$1,178.46, post-injury weekly wage of \$1,038.40 resulting in a "TPD rate" of \$90.03; handwritten notes indicate it was for benefit period "8/22 to 8/28/23."

- gross weekly wages of \$1,178.46, post-injury weekly wage of \$1,145.95 resulting in a “TPD rate” of \$20.90; handwritten notes indicate it was for benefit period “8/29 - 9/4/23.” (Email, September 7, 2023).

14) On September 7, 2023, Employee emailed Garcia:

It’s apparent I’m still not understanding. You indicate the amount of pay I received varies on the hours per week I work. I have two employers; Michaels & State of Alaska. When at Michaels, I averaged 16-20 hrs per week. At my state position, I work 40 hrs per week unless I miss work for any reason to include my recent knee injury, where I utilize personally to ensure my pay is that of a 40 hr work week.

Am I misunderstanding compensation should be received as a result of both employers - missed work from not being at Michaels and any missed work from my State position due to appointments as a result of my knee? If you could better explain, I’d greatly appreciate it.

\$711.37 for a month’s pay as a result of missing work from two employers does not sound accurate at all. (Email, September 7, 2023).

15) On September 12, 2023, Employee emailed Garcia again:

I have not heard back regarding my below inquiry to best understand my workers’ compensation claim and how it is being calculated. I would appreciate a response as soon as time permits.

In addition, on the GBGO app it shows a check in the amount of \$110.93 was issued on 9/7/23 to my PO Box. . . . I have not received that form of payment to date. Can you please look into this and ensure it was in fact mailed? . . . (Email, September 12, 2023).

16) On September 19, 2023, Employee emailed Garcia her timesheet for her State of Alaska position, pay period ending September 17, 2023. (Email, September 19, 2023).

17) On September 21, 2023, PA-C Sokolova filled out a “Patient Status Slip” advising Employee was seen on November September 21, 2023, and stated, “Can return to work 2-4 hours at a time with 10 minute breaks every hour if needed. (no stairs).” She indicated the following restrictions: no lifting greater than 20 pounds, no working at heights, no extended climbing, squatting or bending. PA-C Sokolovia filled out a Physician’s Report and checked the box “Yes” under “Released for Work” and checked box for “Modified Work” and wrote “frequent breaks, 2-4 hours/day [illegible] no stairs.” (Sokolova Physician’s Report and Patient Status Slip, September 21, 2023).

18) On October 9, 2023, Employee emailed Garcia and adjuster McKenna Wentworth a timesheet for her State of Alaska position pay period ending October 1, 2023, and said she was back to work as of September 24, 2023. (Email, October 9, 2023).

19) On October 23, 2023, Wentworth replied to Employee's October 9, 2023 email, "I just left you a message but in short, the letter that you received is a disability remittance from the State, it does not in any way impact or close your claim. Please proceed with your therapy." (Email, October 23, 2023).

20) On October 16, 2023, PA-C Sokolova filled out a Patient Status Slip advising Employee was seen on October 16, 2023, and stated, "Please excuse patient from work today." She indicated the following restrictions: no lifting greater than 20 pounds, no working at heights, no extended climbing, squatting or bending. (Sokolova Patient Status Slip, October 16, 2023).

21) On November 14, 2023, PA-C Sokolova filled out a Patient Status Slip advising Employee was seen on November 13, 2023 and stated, "Please excuse patient from work 11/13/2023 – 11/16/2023." (Sokolova Patient Status Slip, November 14, 2023).

22) On November 20, 2023, Employee emailed Wentworth, "This email is reporting my absence from work as of 11/9/23 to due complications with my knee. I was unable to get with the doctor until 11/13/23 where they recommended a MRI and advised no work until results could be discussed on 11/16/23. Please see the attached work note." (Email, November 20, 2023).

23) On January 8, 2024, Employee emailed Wentworth a list of appointment dates for medical appointments and provided Google Map printouts to determine mileage from her home to the medical providers offices and requested for reimbursement of mileage for past appointments and future appointments. (Email, January 8, 2024).

24) On January 10, 2024, the Division mailed Employee a letter stating:

We have received notice from the primary sender/claim administrator that your benefits on this claim have been reinstated per the report, RB-Reinstatement of Benefits. Benefits reported on the claim include the following:

<b>BTC</b>	<b>Description</b>	<b>MTC</b>	<b>Start</b>	<b>Through</b>	<b>Net Weekly</b>	<b>Amount Paid</b>
070	Temporary Partial		07/18/23	09/25/23		1,289.57
050	Temporary Total	RB	11/09/23	11/16/23	355.68	406.48

You may verify your rates using Alaska's Division of Workers' Compensation benefit calculator hosted at <http://labor.alaska.gov/wc/benefitcalculator.htm>.

If you have any questions, please contact the claim administrator at (907) 276-3452. If you need further assistance after speaking with the claim administrator, contact the nearest Alaska Workers' Compensation Division Office listed at <http://labor.alaska.gov/wc/>. In all correspondence concerning your claim, please reference your AWCB Number: 202309990. (Letter, January 10, 2024).

- 25) On January 24, 2024, Employer paid Employee \$156.81 for travel mileage reimbursement. (Employee direct deposit, filed June 17, 2024).
- 26) On January 30, 2024, PA-C Sokolova filled out a Patient Status Slip advising Employee was seen on January 30, 2024, and stated, "Please excuse patient from work 1/30/2024, 1/31/2024." (Sokolova Patient Status Slip, January 30, 2024).
- 27) On February 1, 2024, PA-C Sokolova filled out a Patient Status Slip advising Employee was seen on January 30, 2024, and stated, "Please excuse patient from work this week 1/29/2024-2/3/2024." (Sokolova Patient Status Slip, February 1, 2024).
- 28) On February 8, 2024, Employer paid Employee \$105.73 for travel mileage reimbursement. (Employee direct deposit, filed June 17, 2024).
- 29) On March 19, 2024, PA-C Sokolova filled out a "Physician's Report" and checked the box "No" under "Released for Work" and wrote six weeks under "Estimated Length of Disability." (Sokolova Physician's Report, August 10, 2023).
- 30) On March 22, 2024, Dr. Strohmeyer performed a left total knee arthroplasty with robotic assistance. (Strohmeyer Operative Report, March 22, 2024).
- 31) On April 4, 2024, PA-C Sokolovia filled out a Physician's Report and checked the box "No" under "Released for Work" and wrote six weeks under "Estimated Length of Disability." (Sokolova Physician's Report, April 4, 2024).
- 32) On April 26, 2024, Wentworth emailed Employee:

WC pay calculations: The compensation rate is based off the highest year earnings for 2021 or 2022, which was based off the 2022 earnings of \$69,438.67. Your average weekly rate is \$1,388.77. Your temporary total disability rate is \$942.77.

Payment has been issue for period 04/09/24-04/29/24 for 3 weeks @ \$942.77 = \$2,828.31.

There are no taxes taken out as this is tax free and is not reported on your taxes.

Let me know if you have any additional questions regarding the compensation. (Email, April 26, 2024).



33) The communication between Wentworth and Employee which led to the April 26, 2024 email is not in the file. (Agency file).

34) On May 2, 2024, PA-C Sokolovia filled out a “Physician’s Report” and checked the box “No” under “Released for Work” and wrote nine weeks under “Estimated Length of Disability.” (Sokolova Physician’s Report and Patient Status Slip, May 2, 2024).

35) On May 3, 2024, Employee emailed Leslie Parrish and Wentworth with dates of medical appointments and requested reimbursement for mileage commuting from her home. (Email, May 3, 2024).

36) On May 17, 2024, Employer paid Employee \$157.56 for travel mileage reimbursement. (Employee direct deposit, filed June 17, 2024).

37) On May 29, 2024, Dr. Strohmeyer filled out a “Physician’s Report” and wrote Employee needed to follow up in four weeks and continue physical therapy. (Strohmeyer Physician Report, May 29, 2024).

38) On June 10, 2024, adjuster Ranada Robinson emailed Employee, “I believe that you have been advised that your claim has been re-assigned to me. However, I just wanted to introduce myself. My contact info is located below. Please do not hesitate to contact me with any questions or concerns that you may have.” (Email, June 10, 2024).

39) On June 10, 2024, Employee replied to Robinson and asked Robinson to call her, “I left a voicemail early this morning for you and have not received a call back. I’m following up on my benefits that have not been yet distributed.” (Email, June 10, 2024).

40) On June 17, 2024, Employee sought a penalty for late paid compensation for the July 29, 2023 left knee injury. Under “Reason for filing claim,” she wrote: “Since my date of injury & two subsequent surgeries (one consisting of a total knee replacement) my workers compensation payments are continuously late. I have to call. and email to initiate payments due to me. I’m continuously given false information about benefits being processed. I have documentation all along to prove this. . . .” Employee attached direct deposit payment dates showing the dates payments cleared from August 30, 2023, to June 10, 2024, for disability benefits and travel mileage reimbursement. (Claim for Workers’ Compensation Benefits, June 17, 2024).

41) On June 18, 2024, PA-C Sokolova filled out a Physician’s Report and checked the box “No” under “Released for Work” and wrote six weeks under “Estimated Length of Disability.”

(Sokolova Physician's Report, June 18, 2024). Employee emailed this Physician Report to Robinson and Wentworth. (Email, June 18, 2024).

42) On July 11, 2024, Dr. Strohmeyer filled out a "Physician's Report" and checked the box "No" under "Released for Work" and wrote "six weeks" under "Estimated Length of Disability." (Strohmeyer Physician's Report and Patient Status Slip, May 2, 2024).

43) On July 12, 2024, Employer denied a penalty for late paid compensation contending Employee was "paid all benefits for which there is supporting documentation." It admitted a penalty for disability payments not made within seven days after it became due under AS 23.30.155(e). (Controversion Notice and Answer to Employee's Workers' Compensation Claim, July 12, 2024).

44) On July 12, 2024, Employee emailed Robinson, Wentworth, Chris Wesley and Jennifer Young:

Please see the attached physician's report from yesterday's appointment.

Also, I do not see on my GBGO phone app for direct deposit that I have received payment for mileage reimbursement for the month of May 2024, which I sent in almost a month ago, on 6/17/24 – please see the email above.

Furthermore, after an intake meeting to DOL Rep; Tom on 07/08/24, I do believe the insurance adjusters are overpaying me. I inquired with McKenna the week of 04/26/24 when seeking my WC payment for that time period and about how calculations are made for workers comp because of a larger amount I previously received (see her response above). During this conversation I also reported I was back to work, working from home as I am able. She did ask when I began working, and I had explained that week. Her reply was that I needed to get her the Physician's Report as soon as possible indicating I'm able stable to return to work at Michaels. \*\*When speaking to the DOL Rep; Tom, I questioned my pay amounts. He informed me I likely am being overpaid and that WC Adjuster know when I work and do not work and are not handling my cases they should.

If I am to send in timesheets for my state of Alaska employer as they did for my first surgery, please let me know when I will get those over. (Email, July 12, 2024).

45) On July 12, 2024, Robinson replied to Employee's July 12, 2024 email:

Regarding your inquiry about the overpayment I will get with McKenna and get back to you on that.

Your payment for 07/05/24-07/15/24 was issued on 07/11/24. Your next payment will be issued on 07/25/24 for the dates of 07/16/24-07/29/24. (Email, July 12, 2024).

46) On June 17, 2024, Employee emailed Robinson a list of medical appointments for May 2024 for milage reimbursement and a Google Map printout to calculate mileage. (Email, June 17, 2024).

47) On July 18, 2024, Dr. Strohmeyer filled out a Physician's Report and checked the box "No" under "Released for Work" and provided an estimate of eight weeks under "Estimated Length of Disability." (Strohmeyer Physician's Report, July 18, 2024).

48) On July 23, 2024, Employee emailed Paddock release forms and timesheets from the State of Alaska since her "second surgery on 03/22/24." (Email, July 23, 2024).

49) On July 23, 2024, Paddock replied to Employee's July 23, 2024 email,

For your State of Alaska pay, I need copies of your pay stubs for these time periods. It is the dollar amount of your wages which is needed to calculate temporary disability benefits, not your hours worked.

I am also in conversations with the adjuster, Ranada, about your mileage. I see that you attached a map for miles. . . . Would you please confirm for each appointment that is the address you were traveling from/to for each appointment? If there are appointments when you traveled from a different address, please identify the dates of those appointments and the address.

Finally, I've attached a mileage reimbursement request form for Wilton. Please use this form to document your mileage and request for reimbursement. It is intended to expediate your mileage request. (Email, July 23, 2024).

50) On July 24, 2024, Employee replied to Paddock's July 23, 2024 email:

During the Pre-Trial with the WC representative yesterday, I stated twice that I would get over timesheets and releases to you. I have always provided timesheets in the past correspondence with the insurance adjusters. They have indicated my pay is calculated based off my tax returns the past two years prior to my injury and have calculations from those documents I provided to begin with. It took a bit of digging for timesheets, and it's not that I'm opposed to providing pay stubs, I just don't understand why I would have to provide those when that's never been a request all along – even when I began working after my first surgery.

Regarding the mileage reimbursement I submitted on 06/14/24 (well over a month ago) for May appointments, I have always attached maps indicating where I have traveled from to assist the insurance adjusters. The address provided is the address I traveled to and from. (Email, July 24, 2024).

51) On July 24, 2024, Paddock replied to Employee's July 24, 2024 email:

Thank [you] for the confirmation about the address associated with your mileage. I will let my client know to proceed based on that information.

I understand the confusion over your timesheets versus paystubs. I should have been clearer in my request yesterday. Your compensation rate for benefits is determined by your earnings from all occupations in the two years prior to the work injury. AS 23.30.220(a)(4). To determine if there has been an overpayment of temporary benefits, we must utilize your wages during the ongoing period of disability – your actual earnings. The statute, AS 23.30.200, on temporary partial disability requires that we consider post-injury wages – not hours. . . . (Email, July 24, 2024).

52) On July 31, 2024, Paddock mailed Employee a letter asking for her paystubs from the State of Alaska from the date of injury to current and ongoing. (Letter, July 31, 2024).

53) On August 12, 2024, Employee provided her State of Alaska pay slips dating back to July 17, 2023 to Paddock:

As explained previously, I have always provided timesheets to the adjuster, as that is what they requested from me originally, along with my tax information. I continued to provide timesheets, as they never indicated they needed anything different. This whole worker's comp claim experience with the adjuster has been underhanded and executed poorly throughout. And the fact I have had to file a late file compensation form with the Alaska WC Board to get paid on time is absurd. (Email, August 12, 2024).

54) On August 23, 2024, Paddock emailed Employee two spreadsheets, the first spreadsheet shows how TPD benefits should have been calculated and paid since Employee continued to work and receive wages from the State of Alaska while disabled from July 17, 2023, through July 23, 2024. The second spreadsheet shows the benefit amounts Employer paid Employee, the wages Employee was paid by the State of Alaska and the TPD benefits that were due demonstrating that Employee was overpaid; it also showed when Employer made payments, that payments were due every 14 days and determined which payments were late and calculated penalty and interest for each late payment based upon the number of days passed until payment. Paddock explained Employee's personal leave earnings were not used to calculate her post-injury weekly wage and the TPD benefits, only regular pay and holiday pay were considered, and a reimbursement Employee received from the State of Alaska was not considered. She determined Employee was entitled to \$5,779.99 in TPD benefits from July 17, 2023, through July 23, 2024, but Employer paid her \$20,870.60 in TTD and TPD benefits, resulting in an overpayment totaling \$15,090.61. Paddock

determined Employer paid Employee TPD benefits late nine times, resulting in \$596.66 for penalty and \$17.59 for interest. She used 7.5 percent interest for payments due after January 2, 2023, and before January 2, 2024, and 8.5 percent interest for payments due on and after January 2, 2024. (Email, August 23, 2024).

55) On September 10, 2024, Employee filed a hearing brief:

. . . Since my injury on 07/17/23, the insurance adjusters have continuously been late with distribution of payments. I have had to continually call and/or e-mail to have them initiate the payment process, and even then have been given misinformation of benefits being processed to find days later they were not.

. . . I was then assigned to the IA claims manager; McKenna Wentworth to work on my case.

Historically, I have been paid three and four weeks at a time. I have correspondence collecting follow up with the adjusters inquiring of payments, snapshots of my direct deposit dates with time periods payments are for, and additional supporting documentation of how problematic this process has been. It's been such an issue, my medical leave of absence (LOA) expired when it shouldn't have due to the IA not providing one single Physician's Report to internal counterparts to keep my LOA active. In addition to that and more recently, to get payments distributed on time, my case was transferred to the resolution manager; Ranada Robinson.

Since filing my complaint with the WC Board on 06/17/2024, and the subsequent Pre Trial/Status Hearing the company's attorney; Vicki Paddock requested my timesheets from my State of Alaska employer, which I provided on 07/23/24. Although I did not understand why, Ms. Paddock then explained my past pay slips were needed from my State of Alaska employer, which I provided on 08/12/24.

After review of my information, Ms. Paddock is validating the adjusters have been late with payment distribution and explained they are prepared to offer \$596.66 in penalties and interest in the amount of \$17.59. They are also indicating there has been overpayment in the amount of \$15,090.61, which I am rebutting.

I have been nothing but cooperative with the IA's. I have provided them with whatever they have requested and have continued to state in correspondence if anything more is needed to please let me know. I am not an insurance adjuster. I do not know the duties and expectations of their positions. Up until Ms. Paddock's involvement and request for pay slips, I was never asked to provide them. As previously stated, I primarily dealt with the IA Claims Manager, who I assumed was handling my case appropriately. After my second surgery and with such large payments being received, I inquired about potential overpayment with the IA Claims Manager. She stated in return that they needed a medical release from my doctor as soon as it's available. With that response and being paid three and four

weeks at a time, I assumed everything was fine and that my case was being handled appropriately. Why would I think otherwise when the IA's are supposed to be the experts in their field of work?

At this time, I am requesting the WC Board see the errors made by the Insurance Adjusters. From the beginning, they did not and have not requested the correct documentation to accurately calculate WC benefits and is demonstrated in my supporting documentation. I was not aware of this all along until I questioned it with such large payments after my second surgery. I questioned this specifically with the IA Claims Manager; Ms. Wentworth and she indicated nothing to me except a Medical Release is needed from my doctor as soon as it's available. From the beginning, they have not made timely distribution of benefits and is demonstrated in my supporting documentation.

. . . [T]he attorney is indicating I owe back pay to the IA's, which I disagree with. It's not like my case is assigned to a newly recruited IA, as I primarily dealt with the Claims Manager. Any overpayment is truly their negligence and speaks to that even more so with my inquiring of it and the issue not being looked into. With above facts and conclusions, I am requesting the WC Board relieve me from the said over payment. (Employee brief, September 10, 2024).

56) On September 10, 2024, Employee also filed evidence for hearing, including the direct deposit payment dates showing the dates payments cleared from August 30, 2023, to June 10, 2024, for disability benefits and travel mileage reimbursement and emails between Employee and the claims adjusters and Paddock. (Evidence, September 10, 2024).

57) On September 12, 2024, Dr. Strohmeyer filled out a Physician's Report and checked the box "Yes" under "Released for Work" and checked the box for "Modified Work" on "9/23/24" and wrote "light duty." (Strohmeyer Physician's Report and Patient Status Slip, September 12, 2024).

58) On September 24, 2024, Dr. Strohmeyer released Employee to work with restrictions, including no lifting greater than 15 pounds and no extended climbing, squatting or bending. (Patient Status Slip, September 24, 2024).

59) On September 24, 2024, Employer filed a payment list demonstrating Employer paid disability benefits for three periods: (1) TPD benefits from July 18, 2023, to September 25, 2023, and (2) TTD benefits from November 9, 2023, to November 16, 2023, and (3) from January 29, 2024, to August 12, 2024. Employer included Employee's State of Alaska paystubs from August 2, 2023, through September 11, 2024, demonstrating when Employee worked for the State of Alaska and used personal paid leave. (Notice of Intent to Rely, September 24, 2024).

60) On October 8, 2024, the parties agreed to a two-hour oral hearing on November 20, 2024, and identified issues for the hearing on Employee's June 17, 2024 claim as "penalty, interest, and determination of the overpayment." (Prehearing Conference Summary, October 8, 2024).

61) On October 29, 2024, Employer filed a medical summary which included the employer's medical evaluation (EME) report dated February 5, 2024. (Medical Summary, October 29, 2024).

62) On November 13, 2024, Employer contended it is entitled by AS 23.30.155(e) to recover overpaid benefits by withholding up to 20 percent of unpaid installments of compensation due without an order. It contended there is no exception and it was asserting its right to recover that payment. Employer contended Employee is seeking to create a penalty beyond that which is provided in AS 23.30.155(e). It contended Employee failed to provide any alternative calculations for penalty and interest and it paid her what she is entitled to under the Act. (Employer's Hearing Brief for 11/20/24 Hearing, November 13, 2024).

63) On November 20, 2024, Employee testified at hearing she provided any and all documentation Employer requested; she provided W2s and time sheets. She questioned how her compensation was calculated and the adjuster explained, but she does not understand how benefits are calculated. This is the first time she was injured while working so she is not familiar with workers' compensation benefits and it was a life-changing event. Employer consistently paid her late and failed to timely provide her with a copy of the EME report. Employee was not asked to provide her pay stubs until Paddock entered her appearance; she faults the adjusters for not asking for them. She believes the adjuster knew all along that she had a second, primary job. Employee does not know how to calculate time loss benefits, penalty or interest. She received two separate payments for a penalty and interest by direct deposit. Employee believes it is "underhanded" for Employer to pay her incorrectly due to their own negligence or error and then to seek repayment of the overpayment from her future payments. She spoke with "Tom" at Labor about the possibility of an overpayment but she did not go over the calculations Paddock provided to her with Division staff. (Employee).

64) Employee contends it is the adjuster's responsibility to know and follow the law. She contends it would be inappropriate to allow Employer to recoup the overpayment because Employer made the errors, she did not, and the punishment would fall on her and not Employer. (Record).

PRINCIPLES OF LAW

**AS 23.30.001. Legislative intent.** It is the intent of the legislature that

(1) this chapter be interpreted . . . to ensure the quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers. . . .

The Board may base its decision on not only direct testimony, medical findings, and other tangible evidence, but also on the Board’s “experience, judgment, observations, unique or peculiar facts of the case, and inferences drawn from all of the above.” *Fairbanks North Star Borough v. Rogers & Babler*, 747 P.2d 528, 533-34 (Alaska 1987).

**AS 23.30.097. Fees for medical treatment and services.** . . .

(g) . . . Unless the employer controverts a charge, an employer shall reimburse any transportation expenses for medical treatment under this chapter within 30 days after the employer receives the health care provider’s completed report and an itemization of the dates, destination, and transportation expenses for each date of travel for medical treatment. . . .

**AS 23.30.135. Procedure before the board.** (a) In making an investigation or inquiry or conducting a hearing the board is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter. The board may make its investigation or inquiry or conduct its hearing in the manner by which it may best ascertain the rights of the parties. Declarations of a deceased employee concerning the injury in respect to which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and are, if corroborated by other evidence, sufficient to establish the injury.

“Substantial evidence” to support Workers’ Compensation Board (Board) findings is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Smith v. CSK Auto, Inc.*, 204 P.3d 1001, 1007 (Alaska 2009).

The Alaska Supreme Court (Court) has recognized the Board may be required to apply equitable or common law principles in a specific case and has explicitly held the Board has authority to invoke equitable principles to prevent an employer from asserting statutory rights. *Wausau Insurance Companies v. Van Biene*, 847 P.2d 584, 588 (Alaska 1993). An implied waiver arises where the course of conduct pursued evidences an intention to waive a right or is inconsistent with



any other intention than a waiver, or where neglect to insist upon the right results in prejudice to another party. *Id.* To prove an implied waiver of a legal right, there must be direct, unequivocal conduct indicating a purpose to abandon or waive the legal right, or acts amounting to an estoppel by the party whose conduct is to be construed as a waiver. *Id.* (citing *Milne v. Anderson*, 576 P.2d 109 (Alaska 1978)). The elements of estoppel are assertion of a position by word or conduct, reasonable reliance thereon by another party, and resulting prejudice. *Id.* (citing *Jamison v. Consolidated Utilities*, 576 P.2d 97, 102 (Alaska 1978)).

**AS 23.30.150. Commencement of compensation.** Compensation may not be allowed for the first three days of the disability, except the benefits provided for in AS 23.30.095; if, however, the injury results in disability of more than 28 days, compensation shall be allowed from the date of the disability.

**AS 23.30.155. Payment of compensation.** (a) Compensation under this chapter shall be paid periodically, promptly, and directly to the person entitled to it, without an award, except where liability to pay compensation is controverted by the employer. . . .

(b) The first installment of compensation becomes due on the 14th day after the employer has knowledge of the injury or death. On this date all compensation then due shall be paid. Subsequent compensation shall be paid in installments, every 14 days, except where the board determines that payment in installments should be made monthly or at some other period.

. . . .

(e) If any installment of compensation payable without an award is not paid within seven days after it becomes due, as provided in (b) of this section, there shall be added to the unpaid installment an amount equal to 25 percent of the installment. This additional amount shall be paid at the same time as, and in addition to, the installment, unless notice is filed under (d) of this section or unless the nonpayment is excused by the board after a showing by the employer that owing to conditions over which the employer had no control the installment could not be paid within the period prescribed for the payment. The additional amount shall be paid directly to the recipient to whom the unpaid installment was to be paid.

. . . .

(h) The board may upon its own initiative at any time in a case in which payments are being made with or without an award, where right to compensation is controverted, or where payments of compensation have been increased, reduced, terminated, changed, or suspended, upon receipt of notice from a person entitled to compensation, or from the employer, that the right to compensation is controverted, or that payments of compensation have been increased, reduced, terminated,

changed, or suspended, make the investigations, cause the medical examinations to be made, or hold the hearings, and take the further action which it considers will properly protect the rights of all parties.

....

(j) If an employer has made advance payments or overpayments of compensation, the employer is entitled to be reimbursed by withholding up to 20 percent out of each unpaid installment or installments of compensation due. More than 20 percent of unpaid installments of compensation due may be withheld from an employee only on approval of the board.

....

(p) An employer shall pay interest on compensation that is not paid when due. Interest required under this subsection accrues at the rate specified in AS 09.30.070(a) that is in effect on the date the compensation is due.

The Court has held the purpose of AS 23.30.155 is clear:

It is an incentive to employers to make prompt and timely compensation owing to employees. The importance to the worker, whose means of support is more often than not composed mainly of his wages, of receiving compensation without delay cannot be overemphasized. The injured worker, depending on his circumstances, typically cannot afford time away from the job without periodic and prompt compensation. *Land & Marine Rental Co. v. Rawls*, 686 P.2d 1187, 1191 (Alaska 1984).

In *Croft v. Pan Alaska Trucking, Inc.*, 820 P.2d 1064, 1066 (Alaska 1991), the employer sought reimbursement of attorney's fees paid to the employee's attorney while the case was pending on appeal which resolved in the favor of the employer. The Court held the recoupment of overpayments to a claimant from future payments is the exclusive means by which employer may be reimbursed for overpayment under AS 23.30.155(j). AS 23.30.155(j) permits withholding up to 20 percent of future compensation installments and can be invoked at an employer's discretion. *Davenport v. K&L Distributors, Inc.*, AWCB Dec. No. 92-0180 (July 22, 1992). It does not, however, provide any criteria or factors that should be considered in determining whether a higher rate of withholding is appropriate. *Barnett v. Lee's Custom Designs*, AWCB Dec. No. 99-0146 (July 8, 1999) considered the financial hardship the employee would suffer as result of withholding at a higher rate. *Decker v. Price/Northland J.V.*, AWCB Dec. No. 93-0304 (November 24, 1993), considered the length of time an employee was expected to be disabled and whether the overpayment could be recouped within that time at 20 percent. And *Bathony v. State*, AWCB Dec.

98-0101 (April 22, 1998), considered the fact the overpayment arose or was exacerbated by the employee's resistance to providing correct information to the employer. In *Green v. Kake Tribal Corp.*, 816 P.2d 1363 (Alaska 1991), the parties disputed how the employer could recoup an overpayment -- whether in a lump sum, since the employee received a lump sum from Social Security for the offset it had taken -- or overtime. *Green* held the employer could recoup its overpayment of benefits at 100 percent of the employee's benefits until the total overpayment had been recouped, because the employee had received a lump sum from Social Security and so would not be unduly impacted by a 100 percent withholding to recover the overpayment.

**AS 23.30.185. Compensation for temporary total disability.** In case of disability total in character but temporary in quality, 80 percent of the injured employee's spendable weekly wages shall be paid to the employee during the continuance of the disability. Temporary total disability benefits may not be paid for any period of disability occurring after the date of medical stability.

**AS 23.30.200. Temporary partial disability.** (a) In case of temporary partial disability resulting in decrease of earning capacity the compensation shall be 80 percent of the difference between the injured employee's spendable weekly wages before the injury and the wage-earning capacity of the employee after the injury in the same or another employment, to be paid during the continuance of the disability, but not to be paid for more than five years. Temporary partial disability benefits may not be paid for a period of disability occurring after the date of medical stability.

(b) The wage-earning capacity of an injured employee is determined by the actual spendable weekly wage of the employee if the actual spendable weekly wage fairly and reasonably represents the wage-earning capacity of the employee. The board may, in the interest of justice, fix the wage-earning capacity that is reasonable, having due regard to the nature of the injury, the degree of physical impairment, the usual employment, and other factors or circumstances in the case that may affect the capacity of the employee to earn wages in a disabled condition, including the effect of disability as it may naturally extend into the future.

In *Orbeck v. University of Alaska*, AWCB Dec. No. 04-0123 (May 24, 2004), the Board declined to reduce the employee's entitlement to TTD or TPD benefits for receiving sick leave benefits or vacation pay, citing the majority rule in Larson's treatise, because there is no statutory basis for offsetting or barring time loss benefits for receipt of sick leave or vacation pay. According to Professor Larson, the majority rule is that offset provisions for sick leave pay should be strictly

construed and unless expressly made deductible, they should not be treated as a benefit for which compensation payments are to be reduced. 32 *Larson's Workers' Compensation Law*, §157.04.

**AS 23.30.395. Definitions.** In this chapter, . . .

(16) "disability" means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment;

**8 AAC 45.084. Medical travel expenses.** (a) This section applies to expenses to be paid by the employer to an employee who is receiving or has received medical treatment.

(b) Transportation expenses include

(1) a mileage rate, for the use of a private automobile, equal to the rate the state reimburses its supervisory employees for travel on the given date if the usage is reasonably related to the medical examination or treatment;

. . . .

(d) Transportation expenses, in the form of reimbursement for mileage, which are incurred in the course of treatment or examination are payable when 100 miles or more have accumulated, or upon completion of medical care, whichever occurs first.

. . . .

**8 AAC 45.142. Interest.** (a) If compensation is not paid when due, interest must be paid at the rate established in AS 45.45.010 for an injury that occurred before July 1, 2000, and at the rate established in AS 09.30.070(a) for an injury that occurred on or after July 1, 2000. If more than one installment of compensation is past due, interest must be paid from the date each installment of compensation was due, until paid. If compensation for a past period is paid under an order issued by the board, interest on the compensation awarded must be paid from the due date of each unpaid installment of compensation.

### ANALYSIS

#### **1) Is Employee entitled to an additional penalty and interest for late payments?**

Employee contends she is entitled to a penalty and interest because Employer continuously paid benefits late; she did not provide calculations with her request, nor did she specify which payments were late. She provided direct deposit payment dates showing the dates payments from Employer cleared from August 30, 2023, to June 10, 2024, for disability and travel cost reimbursements; the

dates Employer show it paid benefits on its payment list match the direct deposit dates Employee provided for disability benefits. The only documentation showing payment of travel cost reimbursements are Employee's direct deposit payments.

Employer paid Employee penalty and interest for temporary partial disability (TPD) payments it agreed it paid late and provided calculations supporting its position. It showed nine disability payments totaling \$2,386.63 were paid late; it properly calculated penalty at \$596.66, which is 25 percent of the total payments made late. AS 23.30.155(e). Employer's spreadsheet calculations correctly omitted Employee's paid leave to calculate her post-injury weekly wage and the TPD benefits she was entitled to. *Orbeck; Larson's*. Employer's spreadsheet calculation correctly showed payments were due every 14 days as TPD benefits are due every 14 days, and a penalty is owed if not paid within seven days of the due date. AS 23.30.155(a), (b), (e); AS 23.30.200. The dates Employer showed it paid benefits on its August 23, 2024 spreadsheet match the direct deposit dates Employee provided. Its spreadsheet correctly determined which TPD payments were late; the spreadsheet also used the correct interest rate and correctly calculated interest based upon the number of days it paid late at \$17.59. AS 23.30.155(p); 8 AAC 45.142. Employee is only entitled to \$596.66 for a penalty and \$17.59 for interest, which Employer already paid; she is not entitled to additional penalty or interest on TPD benefits. AS 23.30.155(e), (p); *Rawls*.

Transportation expenses for medical treatment must be paid within 30 days after Employer receives the health care provider's completed report and an itemization of the dates, destinations and transportation expenses for each date of travel for medical treatment. AS 23.30.097(g). Furthermore, reimbursement for travel expenses are not payable until they are incurred. 8 AAC 45.084(d). Employee submitted documentation for reimbursement on January 8, 2024, for past and future medical appointments; Employer made payments for travel cost reimbursement on January 24 and February 8, 2024. Because Employee did not submit the itemization required by statute, it cannot be determined whether Employer correctly "split" the travel reimbursement payments for costs incurred for the "future" and "past" medical appointments.

Employee submitted documentation and requested reimbursement again on May 3, 2024; Employer timely made a payment for travel cost reimbursement on May 17, 2024. Employee

sought reimbursement for travel costs for the last time on June 17, 2024, in an email; her email included the dates of the appointments and a map demonstrating mileage. The direct deposit dates Employee provided with her claim and evidence she filed for hearing on September 10, 2024, ended on June 10, 2024, before Employee made her final travel cost reimbursement request on June 17, 2024. Employee provided no evidence showing the direct deposit payment for the June 17, 2024 mileage reimbursement request, so the date payment was made and the amount paid is unknown; thus, it cannot be determined whether it was paid late and if it was paid late, the amount of interest and penalty cannot be calculated. Based upon the documentation Employee provided, she is not entitled to a penalty or interest on travel cost reimbursements. AS 23.30.097(g); 8 AAC 45.084. Employee is not entitled to an additional penalty or interest for travel reimbursement costs. Her request for an additional penalty and interest will be denied.

**2) Is Employer entitled to be reimbursed for overpayments of benefits?**

Employee contends Employer should not be allowed to recoup any overpayment of disability payments because it negligently paid her too much and failed to correct the overpayment after she questioned the amount she was receiving. Employer contends it is entitled to recoup overpayment of disability benefits because it paid Employee temporary total disability (TTD) benefits while Employee worked for her other employer, the State of Alaska, during periods of disability and she was only entitled to TPD benefits.

Employers have a statutory right to recoup overpayment of benefits. AS 23.30.155(j) permits withholding up to 20 percent of future compensation installments and can be invoked at an employer's discretion. *Davenport*. Equitable principles may be invoked to prevent an employer from asserting statutory rights. *Van Biene*. To prove estoppel, an equitable principle, Employee must prove she reasonably relied upon Employer's assertion of a position by word or conduct and resulting prejudice. *Id.* An implied waiver may arise where the course of conduct pursued evidences an intention to waive a right or is inconsistent with any other intention than a waiver or where neglect to insist upon the right results in prejudice to the other party. *Id.*

Employer first paid Employee TPD benefits from July 18, 2023, to September 25, 2023. Employee provided her time sheets to the claims adjuster; the adjuster used the hours Employee worked on

the time sheets and multiplied it by an hourly wage to calculate the TPD benefits it paid. Employer began paying TTD benefits starting on January 29, 2024, and ending on August 12, 2024. On April 26, 2024, Wentworth explained to Employee how the TTD benefits it paid were calculated. Neither party provided a record of the communication which led to the April 26, 2024 email. Although the parties clearly discussed the calculation of the paid TTD benefits in the April 26, 2024 email, there is no evidence Employee informed the adjuster she was being paid too much or that she was working for the State of Alaska while disabled. The only evidence in the record of Employee informing Employer there was an overpayment of disability benefits was a July 12, 2024 email, when Employee informed the claims adjuster that “Tom” from “DOL” informed her on July 8, 2024 that she was “likely” overpaid and “WC adjuster knows when I work and do not work and are not handling my case as they should.” The claims adjuster informed her she would have to look into the overpayment inquiry the same day, and Paddock requested Employee’s paystubs that same month. There is no evidence in the record showing a claims adjuster or Paddock expressly stated Employer would not assert its statutory right to recoup overpayment of disability benefits. At no time did Employer represent through express words or conduct that it would decline to pursue its right to recoup overpayment.

Employee contends Employer knew she worked for the State of Alaska and it negligently paid her too much by failing to request her paystubs. Employee worked for the State of Alaska when she was injured and continued to do so afterwards and she utilized leave. There are numerous “Physician’s Reports” and “Patient Status Slips” from Employee’s physicians which restricted her from working or provided work restrictions and Employee continued to work for the State of Alaska, a different employer, while so restricted. During the first period Employer paid Employee disability benefits in 2023, Employee provided her time sheets to the claims adjuster and the adjuster sent her TPD calculations when Employee asked for clarification on how her payments were calculated and she informed the claims adjuster she continued to work for the State of Alaska unless she missed work due to the work injury on September 7, 2023.

On November 20, 2023, Employee informed the adjuster of her “absence from work” due to complications with her knee, but her email failed to inform the adjuster which job she was absent from and to provide her State of Alaska time sheets even though she continued to work for the

State of Alaska while she was partially disabled. There is also no evidence showing the claims adjuster asked about Employee's work for the State of Alaska and for her timesheets or paystubs for the State of Alaska. Employee next offered to provide her time sheets to the adjuster on July 12, 2024. Clearly the adjuster should have followed up with Employee and asked whether Employee continued to work for the State of Alaska during her disability and asked for her pay stubs. However, the adjuster informed Employee in a September 7, 2023 email that her compensation rate for TPD was based upon her post-injury weekly wages. Employee should have informed the claims adjuster she was working for the State of Alaska while partially disabled and provided her wages for time she actually worked.

In letters mailed on September 1, 2023, and January 10, 2024, the Division directed Employee to the Division's Benefits Calculator to verify the rates paid by Employer and to contact the Division should she have any questions after speaking to the claims administrator regarding her benefits. She failed to contact the Division regarding her compensation rate until July 2024 when she was informed she was likely overpaid. Injured workers experiencing disability should send copies of W2s, wage stubs or other records proving their earnings to the claims adjuster and adjusters should ask for them to ensure proper calculation of disability compensation. AS 23.30.395(16); AS 23.30.185; AS 23.30.200. Both Employee's failure to provide Employer with her actual wages earned during periods of partial disability and Employer's failure to request paystubs for wages earned during those periods caused this overpayment to occur. *Bathony*. Therefore, it was not reasonable for Employee to rely upon Employer's failure to request paystubs and its payment of TTD benefits instead of TPD benefits as an implied waiver of its right to recoupment of the overpayment. *Van Biene*.

Employee contends allowing Employer to recoup the overpayment from future payments is punishing or penalizing her for Employer's error as she does not understand how disability benefits are calculated. Recoupment is the exclusive way Employer may be reimbursed for an overpayment; it is not a penalty. *Croft*. Employee received leave pay, the TPD benefits she was entitled to and over \$15,000 in overpayments and Employee provided no evidence she would experience financial hardship as a result of recoupment from future benefits. *Van Biene; Barnett; Decker; Green*. Moreover, she gained the unfettered use and time-value (interest) on that



overpayment, but Employer cannot recover interest from her. Employee was not prejudiced by Employer's failure to request paystubs or by its overpayment. *Van Biene*. Employee failed to provide substantial evidence proving equitable estoppel. *Smith; Van Biene*. Furthermore, it would contravene the legislative intent that the Act be interpreted to ensure quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at "a reasonable cost" to employers, were this decision to order Employer's forfeiture of its statutory right to recoup a large overpayment when both parties triggered the overpayment. AS 23.30.001(1); *Rogers & Babler*. Employer is entitled to benefit reimbursement by withholding 20 percent from future benefits pursuant to AS 23.30.155(j), and Employee's request for an order preventing Employer from asserting its statutory right to be reimbursed for the overpayment will be denied.

CONCLUSIONS OF LAW

- 1) Employee is not entitled to an additional penalty or interest for late payments.
- 2) Employer is entitled to be reimbursed for overpayment of benefits.

ORDER

- 1) Employee's June 17, 2024 claim is denied.
- 2) Employee is only entitled to \$596.66 for penalty and \$17.59 for interest, which Employer already paid.
- 3) Employer is entitled to be reimbursed pursuant to AS 23.30.155(j) for overpayment of benefits.

Dated in Anchorage, Alaska on December 4, 2024.

ALASKA WORKERS' COMPENSATION BOARD

\_\_\_\_\_  
/s/  
Kathryn Setzer, Designated Chair

\_\_\_\_\_  
/s/  
Bronson Frye, Member

APPEAL PROCEDURES

This compensation order is a final decision. It becomes effective when filed in the office of the board unless proceedings to appeal it are instituted. Effective November 7, 2005 proceedings to appeal must be instituted in the Alaska Workers' Compensation Appeals Commission within 30 days of the filing of this decision and be brought by a party in interest against the boards and all other parties to the proceedings before the board. If a request for reconsideration of this final decision is timely filed with the board, any proceedings to appeal must be instituted within 30 days after the reconsideration decision is mailed to the parties or within 30 days after the date the reconsideration request is considered denied due to the absence of any action on the reconsideration request, whichever is earlier. AS 23.30.127.

An appeal may be initiated by filing with the office of the Appeals Commission: 1) a signed notice of appeal specifying the board order appealed from and 2) a statement of the grounds upon which the appeal is taken. A cross-appeal may be initiated by filing with the office of the Appeals Commission a signed notice of cross-appeal within 30 days after the board decision is filed or within 15 days after service of a notice of appeal, whichever is later. The notice of cross-appeal shall specify the board order appealed from and the ground upon which the cross-appeal is taken. AS 23.30.128.

RECONSIDERATION

A party may ask the board to reconsider this decision by filing a petition for reconsideration under AS 44.62.540 and in accord with 8 AAC 45.050. The petition requesting reconsideration must be filed with the board within 15 days after delivery or mailing of this decision.

MODIFICATION

Within one year after the rejection of a claim, or within one year after the last payment of benefits under AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, a party may ask the board to modify this decision under AS 23.30.130 by filing a petition in accord with 8 AAC 45.150 and 8 AAC 45.050.

CERTIFICATION

I hereby certify the foregoing is a full, true and correct copy of the Final Decision and Order in the matter of Angela M. Perez, employee / claimant v. Michaels Stores, employer; Safety National Casaulty Corp., insurer / defendants; Case No. 202309990; dated and filed in the Alaska Workers' Compensation Board's office in Anchorage, Alaska, and served on the parties by certified US Mail on December 4, 2024.

\_\_\_\_\_  
/s/  
Rochelle Comer, Workers' Compensation Technician